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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3849

03/15/2018 Authored by Schomacker  
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act  
1.2 relating to health; modifying swing bed approval; amending Minnesota Statutes  
1.3 2017 Supplement, section 144.562, subdivision 2.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2017 Supplement, section 144.562, subdivision 2, is amended  
1.6 to read:

1.7 Subd. 2. **Eligibility for license condition.** (a) A hospital is not eligible to receive a  
1.8 license condition for swing beds unless (1) it either has a licensed bed capacity of less than  
1.9 50 beds defined in the federal Medicare regulations, Code of Federal Regulations, title 42,  
1.10 section 482.66, or it has a licensed bed capacity of 50 beds or more and has swing beds that  
1.11 were approved for Medicare reimbursement before May 1, 1985, or it has a licensed bed  
1.12 capacity of less than 65 beds and the available nursing homes within 50 miles have had, in  
1.13 the aggregate, an average occupancy rate of 96 percent or higher in the most recent two  
1.14 years as documented on the statistical reports to the Department of Health; and (2) it is  
1.15 located in a rural area as defined in the federal Medicare regulations, Code of Federal  
1.16 Regulations, title 42, section 482.66.

1.17 (b) Except for those critical access hospitals established under section 144.1483, clause  
1.18 (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section  
1.19 1395i-4, that have an attached nursing home or that owned a nursing home located in the  
1.20 same municipality as of May 1, 2005, eligible hospitals are allowed a total of 2,000 days  
1.21 of swing bed use per year. Critical access hospitals that have an attached nursing home or  
1.22 that owned a nursing home located in the same municipality as of May 1, 2005, are allowed  
1.23 swing bed use as provided in federal law. Swing bed days classified as charity care according

2.1 to Minnesota Rules, part 4650.0115, or for which the hospital determines after billing for  
2.2 the services that there is a demonstrated inability to pay are excluded from the total allowable  
2.3 swing bed day use per year. Critical access hospitals must maintain documentation for swing  
2.4 bed days classified as charity care. Swing bed days not reimbursed by Medicare are excluded  
2.5 from the total allowable swing bed days per year.

2.6 (c) Except for critical access hospitals that have an attached nursing home or that owned  
2.7 a nursing home located in the same municipality as of May 1, 2005, the commissioner of  
2.8 health may approve swing bed use beyond 2,000 days as long as there are no Medicare  
2.9 certified skilled nursing facility beds available within 25 miles of that hospital that are  
2.10 willing to admit the patient and the patient agrees to the referral being sent to the skilled  
2.11 nursing facility. Critical access hospitals exceeding 2,000 swing bed days must maintain  
2.12 documentation that they have contacted skilled nursing facilities within 25 miles to determine  
2.13 if any skilled nursing facility beds are available that are willing to admit the patient and the  
2.14 patient agrees to the referral being sent to the skilled nursing facility. Skilled nursing facilities  
2.15 that are contacted must admit the patient or deny admission within 24 hours of being  
2.16 contacted by the critical access hospital. Failure to respond within 24 hours is deemed a  
2.17 denial of admission.

2.18 (d) After reaching 2,000 days of swing bed use in a year, an eligible hospital to which  
2.19 this limit applies may admit six additional patients to swing beds each year without seeking  
2.20 approval from the commissioner or being in violation of this subdivision. These six swing  
2.21 bed admissions are exempt from the limit of 2,000 annual swing bed days for hospitals  
2.22 subject to this limit.

2.23 (e) A health care system that is in full compliance with this subdivision may allocate its  
2.24 total limit of swing bed days among the hospitals within the system, ~~provided that no hospital~~  
2.25 ~~in the system without an attached nursing home may exceed 2,000 swing bed days per year.~~